

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

LINDA SHORT, OLIVIA PARKER,
ELIZABETH SNIDER, JENNIFER DIPARDO,
ANTHONY DIPARDO, SEANE RONFELDT,
and JAMES TWIGGER, on behalf of
themselves and all others similarly situated,
Plaintiffs,

vs.

HYUNDAI MOTOR AMERICA, INC.,
HYUNDAI MOTOR COMPANY, KIA
MOTORS AMERICA, INC., and KIA
MOTORS CORPORATION,
Defendants.

No. 2:19-cv-318

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential

1 treatment under the applicable legal principles, and it does not presumptively entitle parties to file
2 confidential information under seal.

3 2. “CONFIDENTIAL” MATERIAL

4 “Confidential” material shall include, but are not limited to, the following documents and
5 tangible things produced or otherwise exchanged that reflect: trade secrets (including design,
6 assembly, testing, service, repair, and monitoring information of class vehicles), financial records,
7 sales and revenue reports, price lists, business strategy, customer information, third-party
8 confidential information, personally identifiable information, and any other things (regardless of
9 how it is generated, stored or maintained) that qualify for protection under Federal Rule of Civil
10 Procedure 26(c).

11 3. SCOPE

12 The protections conferred by this agreement cover not only confidential material (as
13 defined above), but also (1) any information copied or extracted from confidential material; (2) all
14 copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
15 conversations, or presentations by parties or their counsel that might reveal confidential material.

16 However, the protections conferred by this agreement do not cover information that is in
17 the public domain or becomes part of the public domain through trial or otherwise. Any use of
18 confidential material at trial shall be governed by a separate agreement or order.

19 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

20 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
21 or produced by another party or by a non-party in connection with this case only for prosecuting,
22 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the
23 categories of persons and under the conditions described in this agreement. Confidential material
24 must be stored and maintained by a receiving party at a location and in a secure manner that ensures
25 that access is limited to the persons authorized under this agreement.

1 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
2 by the court or permitted in writing by the designating party, a receiving party may disclose any
3 confidential material only to:

4 (a) the receiving party’s outside counsel of record in this action, as well as
5 employees and attorneys employed by said counsel to whom it is reasonably necessary to disclose
6 the information for this litigation;

7 (b) the officers, directors, and employees (including in house counsel) of the
8 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
9 agree that a particular document or material produced is for Attorney’s Eyes Only and is so
10 designated;

11 (c) experts and consultants to whom disclosure is reasonably necessary for this
12 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (d) the court, court personnel, and court reporters and their staff;

14 (e) copy or imaging services or other persons or entities that provide litigation
15 support services (*e.g.*, videotaping, translating, preparing exhibits or demonstrations, and
16 organizing, storing, or retrieving data in any form or medium) and their employees and
17 subcontractors retained by counsel to assist in the management of confidential material, provided
18 that counsel for the party retaining the litigation support services instruct the services not to
19 disclose any confidential material to third parties and to immediately return all originals and copies
20 of any confidential material as appropriate;

21 (f) professional jury or trial consultants and mock jurors to whom disclosure is
22 reasonably necessary for this litigation and who have signed the “Acknowledgment and
23 Agreement to Be Bound” (Exhibit A);

24 (g) during their depositions, witnesses in the action to whom disclosure is
25 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
26 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of

1 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
2 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
3 under this agreement;

4 (h) the author or recipient of a document containing the information or a
5 custodian or other person who otherwise possessed or knew the information;

6 (i) any mediator or settlement officer, including their supporting personnel
7 mutually agreed upon by any of the parties engaged in settlement discussions.

8 4.3 Filing Confidential Material. Before filing confidential material or discussing or
9 referencing such material in court filings, the filing party shall confer with the designating party,
10 in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will
11 remove the confidential designation, whether the document can be redacted, or whether a motion
12 to seal or stipulation and proposed order is warranted. During the meet and confer process, the
13 designating party must identify the basis for sealing the specific confidential information at issue,
14 and the filing party shall include this basis in its motion to seal, along with any objection to sealing
15 the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and
16 the standards that will be applied when a party seeks permission from the court to file material
17 under seal. A party who seeks to maintain the confidentiality of its information must satisfy the
18 requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion to seal.
19 Failure to satisfy this requirement will result in the motion to seal being denied, in accordance with
20 the strong presumption of public access to the Court's files.

21 5. DESIGNATING PROTECTED MATERIAL

22 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
23 or non-party that designates information or items for protection under this agreement must take
24 care to limit any such designation to specific material that qualifies under the appropriate
25 standards. The designating party must designate for protection only those parts of material,
26 documents, items, or oral or written communications that qualify, so that other portions of the

1 material, documents, items, or communications for which protection is not warranted are not swept
2 unjustifiably within the ambit of this agreement.

3 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
4 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
5 unnecessarily encumber or delay the case development process or to impose unnecessary expenses
6 and burdens on other parties) expose the designating party to sanctions.

7 If it comes to a designating party's attention that information or items that it designated for
8 protection do not qualify for protection, the designating party must promptly notify all other parties
9 that it is withdrawing the mistaken designation.

10 5.2 Manner and Timing of Designations. Except as otherwise provided in this
11 agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or
12 ordered, disclosure or discovery material that qualifies for protection under this agreement must
13 be clearly so designated before or when the material is disclosed or produced.

14 (a) Information in documentary form: (*e.g.*, paper or electronic documents and
15 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
16 the designating party must affix the word "CONFIDENTIAL" to each page that contains
17 confidential material. If only a portion or portions of the material on a page qualifies for protection,
18 the producing party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate
19 markings in the margins) to the extent possible.

20 (b) Testimony given in deposition or in other pretrial proceedings: the parties
21 and any participating non-parties must identify on the record, during the deposition or other pretrial
22 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
23 after reviewing the transcript. Any party or non-party may, within thirty (30) days after receiving
24 the transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or
25 exhibits thereto, as confidential. During the thirty (30) day period, all testimony, exhibits and
26 transcripts shall be considered confidential. The court reporter shall operate in a manner consistent

1 with this agreement and shall separately label the confidential portions of the deposition transcript,
2 including documents and other exhibits containing confidential information. If a party or non-party
3 desires to protect confidential information at trial, the issue should be addressed during the pre-
4 trial conference.

5 (c) Other tangible items: the producing party must affix in a prominent place
6 on the exterior of the container or containers in which the information or item is stored the word
7 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,
8 the producing party, to the extent practicable, shall identify the protected portion(s).

9 5.3 Inadvertent Failures to Designate. An inadvertent failure to designate qualified
10 information or items does not, standing alone, waive the designating party’s right to secure
11 protection under this agreement for such material. Upon correction of a designation, the receiving
12 party must make reasonable efforts to ensure that the material is treated in accordance with the
13 provisions of this agreement.

14 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

15 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
16 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality
17 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
18 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
19 challenge a confidentiality designation by electing not to mount a challenge promptly after the
20 original designation is disclosed.

21 6.2 Meet and Confer. The challenging party shall initiate the meet and confer process
22 by providing written notice of each designation it is challenging and describe the basis for each
23 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
24 indicate that the challenge to confidentiality is being made pursuant to the Protective Order. The
25 parties must make every attempt to resolve any dispute regarding confidential designations without
26 court involvement. Any motion regarding confidential designations or for a protective order must

1 include a certification, in the motion or in a declaration or affidavit, that the movant has engaged
2 in a good faith meet and confer conference with other affected parties in an effort to resolve the
3 dispute without court action. The certification must list the date, manner, and participants to the
4 conference. A good faith effort to confer requires a face-to-face meeting or a telephone conference.

5 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
6 intervention, the designating party may file and serve a motion to retain confidentiality under Local
7 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
8 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
9 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
10 other parties) may expose the challenging party to sanctions. All parties shall continue to maintain
11 the material in question as confidential until the court rules on the challenge.

12 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
13 LITIGATION

14 If a party is served with a subpoena or a court order issued in other litigation that compels
15 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party
16 must:

17 (a) promptly notify the designating party in writing and include a copy of the
18 subpoena or court order;

19 (b) promptly notify in writing the party who caused the subpoena or order to
20 issue in the other litigation that some or all of the material covered by the subpoena or order is
21 subject to this agreement. Such notification shall include a copy of this agreement; and

22 (c) cooperate with respect to all reasonable procedures sought to be pursued by
23 the designating party whose confidential material may be affected.

24 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

25 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
26 material to any person or in any circumstance not authorized under this agreement, the receiving

1 party must immediately (a) notify in writing the designating party of the unauthorized disclosures,
2 (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the
3 person or persons to whom unauthorized disclosures were made of all the terms of this agreement,
4 and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be
5 Bound” that is attached hereto as Exhibit A.

6 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
7 MATERIAL

8 If, at any time, a producing party gives notice to receiving parties that certain inadvertently
9 produced material is subject to a claim of attorney-client privilege, work-product protection, trial-
10 preparation privileges or other protection, the obligations of the receiving parties are those set forth
11 in Federal Rule of Civil Procedure 26(b)(5)(B). The producing party must produce substitute
12 information that redacts the information subject to the claimed protection, if possible, and comply
13 with Federal Rule of Civil Procedure 26(b)(5). Any unintentional or inadvertent disclosure of
14 information subject to attorney-client privilege, work-product protection, trial-preparation
15 privileges or other protection shall not constitute a waiver of the privilege or protection with
16 respect to that document or any other documents involving the same or similar subject matter. The
17 parties must confer in a good faith attempt to resolve any disputes subject to this section before
18 seeking court intervention. The parties agree to the entry of a non-waiver order under Fed. R. Evid.
19 502(d) as set forth herein.

20 10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
21 LITIGATION

22 The terms of this Order are applicable to information produced by a non-party in this action
23 and designated as “CONFIDENTIAL.” Such information produced by non-parties in connection
24 with this litigation is protected by the remedies and relief provided by this Order.
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26

1 In the event that a party to this action is required, by a valid discovery request, to produce
2 a non-party's confidential information in its possession, and the party is subject to an agreement
3 with the non-party that pertains to the non-party's confidential information, then the party shall:

4 (1) promptly notify in writing the requesting party and the non-party that some or all of the
5 information requested is subject to a confidentiality agreement with a non-party; and (2) promptly
6 provide the non-party with a copy of the Protective Order in this litigation, a reasonably specific
7 description of the relevant discovery request(s) and the non-party information subject to the
8 discovery request(s). If the non-party fails to object or seek a protective order from this court within
9 7 days of receiving the notice and accompanying information, the party may produce the non-
10 party's confidential information responsive to the discovery request. If the non-party timely objects
11 or seeks a protective order, the party shall not produce any information in its possession or control
12 that is subject to the confidentiality agreement with the non-party before a determination by the
13 court. Absent a court order to the contrary, the non-party shall bear the burden and expense of
14 seeking protection in this court of its confidential material.

15 11. NON TERMINATION AND RETURN OF DOCUMENTS

16 Even after final disposition of this litigation (*i.e.*, dismissal of all claims or final judgment
17 and exhaustion of all appeals or reviews of this action), the confidentiality obligations imposed by
18 this Order shall remain in effect until a designating party agrees otherwise in writing or a court
19 order otherwise directs.

20 Within 60 days after the termination of this action, including all appeals, each receiving
21 party must return all confidential material to the producing party, including all copies, extracts and
22 summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.
23 Whether the confidential material is returned or destroyed, the receiving party must submit a
24 written certification to the producing party (and, if not the same person or entity, to the designating
25 party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected
26 Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained

1 any copies, abstracts, compilations, summaries or any other format reproducing or capturing any
2 of the Protected Material. Notwithstanding this provision, counsel are entitled to retain one
3 archival copy of all documents filed with the court, trial, deposition, and hearing transcripts,
4 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant
5 and expert work product, even if such materials contain confidential material. Any such archival
6 copies that contain or constitute Protected Material remain subject to this Protective Order.

7 The confidentiality obligations imposed by this agreement shall remain in effect until a
8 designating party agrees otherwise in writing or a court orders otherwise.

9
10 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

11 DATED: January 22, 2020

s/ Ryan McDevitt

Attorneys for Plaintiffs

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13 DATED: January 22, 2020

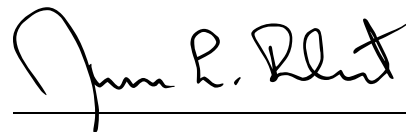
s/ Gavin Snyder

Attorneys for Defendants

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15 PURSUANT TO STIPULATION, IT IS SO ORDERED

16 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
17 documents in this proceeding shall not, for the purposes of this proceeding or any other federal or
18 state proceeding, constitute a waiver by the producing party of any privilege applicable to those
19 documents, including the attorney-client privilege, attorney work-product protection, or any other
20 privilege or protection recognized by law.

21
22 DATED: March 17, 2020

23
24 

25 JAMES L. ROBART
26 United States District Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of
5 perjury that I have read in its entirety and understand the Stipulated Protective Order that was
6 issued by the United States District Court for the Western District of Washington on [date] in the
7 case of *Short et al. v. Hyundai Motor America, Inc., et al.*, Case No. 2:19-cv-318. I agree to comply
8 with and to be bound by all the terms of this Stipulated Protective Order and I understand and
9 acknowledge that failure to so comply could expose me to sanctions and punishment in the nature
10 of contempt. I solemnly promise that I will not disclose in any manner any information or item
11 that is subject to this Stipulated Protective Order to any person or entity except in strict compliance
12 with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the
14 Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective
15 Order, even if such enforcement proceedings occur after termination of this action.

16 Date: _____

17 City and State where sworn and signed: _____

18 Printed name: _____

19 Signature: _____
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